IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.2724-M of 2007
Date of Decision:- 29.8.2007

Avtar Singh ....Petitioner(s)

through
Mr.K.S.Ahluwalia, Sr. Advocate with
Mr.J.S.Rattu, Advocate.

vs.

State of Punjab ....Respondent(s)

through
Mr.Rajesh Bhardwaj, DAG, Punjab.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

***

SURYA KANT, J. (ORAL)

The prayer in this petition is to release the petitioner on regular bail in F.I.R.No.109 dated 29.5.2006 under Sections 307, 326, 324, 148, 149 and 120-B IPC, registered at Police Station, Tanda District Hoshiarpur.

True it is that as per the allegations, it was the petitioner who caused the *Kirpan* blow which has attracted Section 307 IPC.

The petitioner was arrested on 6.7.2006 and is in custody since then.

Meanwhile, challan has been presented; charges have been framed and the case is fixed for prosecution evidence.

Having regard to all the attending circumstances, this Court vide order dated July 09, 2007 directed the prosecution that the complainant should be examined as its first witness on the date fixed i.e. 23.8.2007.

Learned counsel for the petitioner has produced a photostat copy of the order dated 27.8.2007 passed by the learned Additional Sessions Judge, Hoshiarpur which reveals that despite two opportunities, the complainant has not been produced and, therefore, he could not be examined. The order further reveals that summons were sent to the complainant but the same were received back with the report that service could not be effected as his house was found locked.

On a query by the Court, it is stated by Mr.Bhardwaj, learned DAG, Punjab, that the complainant is reportedly involved in a case under Section 326 IPC and apart from that, one more criminal case is registered against him. Since non-bailable warrants have been issued against the complainant, he is evading his service.

It is further pointed out that the prosecution intends to examine as many as 18 witnesses. It is obvious that the conclusion of trial will take considerably long period.

After hearing learned counsel for the parties and having regard to the period already spent by the petitioner in custody and the fact that there appears to be no possibility of conclusion of trial in the near future but without expressing any views on the merits of the case lest it should prejudice either of them, the petitioner is directed to be released on bail to the satisfaction of the Chief Judicial Magistrate, Hoshiarpur.

August 29, 2007 **(SURYA KANT)**
poonam **JUDGE**